

**Notice of Allowability**

Application No.

10/802,456

Applicant(s)

ELLIOTT, STEPHEN BENNETT

Examiner

Sara Lustusky

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment After Final dated 28 March 2007.
2. ☒ The allowed claim(s) is/are 2,8-9,14-17,19-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

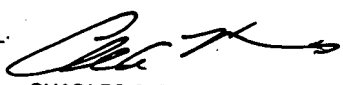
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**CHARLES A. MARMOR II**  
 SUPERVISORY PATENT EXAMINER  
 TECHNOLOGY CENTER 3700

## **DETAILED ACTION**

### ***Response to Amendment***

The Examiner acknowledges Applicant's Amendment After Final dates 28 March 2007. Claims 1, 3-7, 10-13 and 18 are cancelled. Claims 2, 8-9, 14-17 and 19-20 are amended. Claims 2, 8-9, 14-17 and 19-20 are pending.

### ***Drawings***

The drawings were received on 28 March 2007. These drawings are acceptable and overcome the drawing rejections set forth in the Office Action dated 30 January 2007.

### ***Claim Objections***

In view of the claim amendments, the claim objections set forth in the Office Action dated 30 January 2007 are withdrawn.

### ***Allowable Subject Matter***

**Claims 2, 8-9, 14-17 and 19-20** are allowable over the prior art of record.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 2, none of the prior art of record teaches or fairly suggests a method comprising generating a human perceptible indication to identify inhalation and exhalation phases of the breathing cycle, changes between and progression of said inhalation and exhalation phases having a center frequency of approximately 11.76 seconds, to instruct a human to align the breathing cycle with the generated human perceptible indication, wherein generating said human perceptible indication comprises

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generating an audible indicator by adjusting a musical tempo associated with a music score and incorporating the audible indicator into the music score.

Regarding claim 8, none of the prior art of record teaches or fairly suggests a method comprising generating a human perceptible indication to identify inhalation and exhalation phases of the breathing cycle, changes between and progression of said inhalation and exhalation phases having a center frequency of approximately 11.76 seconds, to instruct a human to align the breathing cycle with the generated human perceptible indication, wherein generating said human perceptible indication comprises generating an audible signal recitation of numbers 1 through 7 sequentially within the period having the center frequency of 11.76 seconds such that increasing numbers 1 to 7 denote the inhalation phase and decreasing numbers 1 to 7 denote the exhalation phase.

Regarding claim 9, none of the prior art of record teaches or fairly suggests a method comprising generating a human perceptible indication to identify inhalation and exhalation phases of the breathing cycle, changes between and progression of said inhalation and exhalation phases having a center frequency of approximately 11.76 seconds, to instruct a human to align the breathing cycle with the generated human perceptible indication, wherein generating said human perceptible indication comprises generating an audible signal including musical cues and incorporating the musical cues into musical scores at approximately 5.88 second intervals.

Regarding claim 14, none of the prior art of record teaches or fairly suggests a method comprising generating a human perceptible indication to identify inhalation and

exhalation phases of the breathing cycle, changes between and progression of said inhalation and exhalation phases having a center frequency of approximately 11.76 seconds, to instruct a human to align the breathing cycle with the generated human perceptible indication, wherein generating said human perceptible indication comprises generating a vertically oriented 13 segment visual indicator to identify the inhalation phases and the exhalation phases of the breathing cycle.

Regarding claim 15, none of the prior art of record teaches or fairly suggests a method comprising generating a human perceptible indication to identify inhalation and exhalation phases of the breathing cycle, changes between and progression of said inhalation and exhalation phases having a center frequency of approximately 11.76 seconds, to instruct a human to align the breathing cycle with the generated human perceptible indication, wherein generating said human perceptible indication comprises generating a visual indicator including a circular 7 sector visual indicator.

Regarding claim 16, none of the prior art of record teaches or fairly suggests a method comprising generating a human perceptible indication to identify inhalation and exhalation phases of the breathing cycle, changes between and progression of said inhalation and exhalation phases having a center frequency of approximately 11.76 seconds, to instruct a human to align the breathing cycle with the generated human perceptible indication, wherein generating said human perceptible indication comprises generating a visual indicator including a 14 stage vertically oriented elliptical indicator.

Regarding claim 17, none of the prior art of record teaches or fairly suggests a method comprising generating a human perceptible indication to identify inhalation and

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exhalation phases of the breathing cycle, changes between and progression of said inhalation and exhalation phases having a center frequency of approximately 11.76 seconds, to instruct a human to align the breathing cycle with the generated human perceptible indication, wherein generating said human perceptible indication comprises an audible indicator and visual indicator including indication of numbers 1 through 7 sequentially within the period having the center frequency of 11.76 seconds such that increasing numbers 1 to 7 denote the inhalation phase and decreasing numbers 7 to 1 denote the exhalation phase.

Regarding claim 19, none of the prior art of record teaches or fairly suggests a method comprising generating a human perceptible indication to identify inhalation and exhalation phases of the breathing cycle, changes between and progression of said inhalation and exhalation phases having a center frequency of approximately 11.76 seconds, to instruct a human to align the breathing cycle with the generated human perceptible indication, wherein generating said human perceptible indication comprises generating an audible indicator including a frequency modulated tone and a recitations of numbers 1 through 7.

Regarding claim 20, none of the prior art of record teaches or fairly suggests a method comprising generating a human perceptible indication to identify inhalation and exhalation phases of the breathing cycle, changes between and progression of said inhalation and exhalation phases having a center frequency of approximately 11.76 seconds, to instruct a human to align the breathing cycle with the generated human perceptible indication, wherein generating said human perceptible indication comprises

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generating an audible indicator by post processing at least one existing musical recording to shorten or lengthen a musical tempo associated with the at least one existing musical recording and the insertion of the audible indicator approximately every 5.88 seconds.

### ***Response to Arguments***

Applicant's arguments with respect to claims 2, 8-9, 14-17 and 19-20 have been fully considered and are persuasive. In view of Applicant's amendments the rejections and objections of claims 2, 8-9, 14-17 and 19-20 set forth in the Office Action dated 30 January 2007 have been withdrawn.

### ***Conclusion***

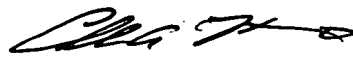
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Lustusky whose telephone number is (571) 272 8965. The examiner can normally be reached on M-F: 9 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on (571) 272 4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.L.



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